

## **REMARKS/ARGUMENTS**

### **I. STATUS OF THE CLAIMS**

With entry of this amendment claims 2, 3, 10, 17-26, 28-33, and 46-48 are canceled, and claims 1, 4-9, 11-16, 27, and 34-45 are pending. Claims 1, 4-6, 8, 9, 11-16, 27, 34, 38, 42, 43 and 45 are amended to more particularly point out and distinctly claim the subject that the applicant regards as the invention.

Claim 1 is amended to recite that the valve body is received in the housing, and that the valve body comprises a fluid processing region continuously coupled fluidically to a fluid displacement region, wherein the fluid processing region is contained within a disk portion of the valve body, and the fluid displacement region is contained substantially within a tubular portion of the valve body. Support is provided, for example, at page 6, lines 22-32 and page 8, lines 9-10, and in Figures 4 and 8. Claim 1 is also amended to recite that the valve body is adjustable relative to a plurality of chamber ports in the housing (support is provided at page 6, lines 25-28 and in Figure 4) and to clarify that the processing chamber is different from the processing region in the valve body (support is provided at page 2, lines 12-15, and at page 23, lines 20-23). Claim 1 is further amended to include the limitations previously recited in claim 2.

Claim 4 is amended to depend from claim 1 and to include the limitations previously recited in claim 3. Claims 5 and 6 are amended to depend from claim 4. Claim 8 is amended to be consistent with claim 1, and claim 9 is amended to depend from claim 1, and to include the limitations previously recited in claim 10.

Claims 11-16, 27, 34, 38, 42, 43, and 45 are amended to update the claim dependencies and claim language to be consistent with the amendments to claim 1 as discussed above. No new matter is added.

### **II. INTERVIEW**

Applicant thanks Examiner Nagpaul for taking the time to discuss the claims and the cited art with us during the telephonic interview of November 10, 2009. While no agreement was reached during the interview, the claim amendments and arguments as presented herein are

consistent with the matters discussed during the interview. In particular, claim 1 has been amended, *inter alia*, to recite:

...a valve body received in the housing, the valve body comprising a fluid processing region continuously coupled fluidically to a fluid displacement region, wherein the fluid processing region is contained within a disk portion of the valve body, and the fluid displacement region is contained substantially within a tubular portion of the valve body...

### III. REJECTIONS UNDER 35 U.S.C. §102(b)

Claims 1, 12, 26-27, 30-32, 34-37, 42-43 and 46 stand rejected under 35 USC §102(b) as allegedly being anticipated by Gundelfinger (U.S. Pat. No. 4,068,528). Claims 26, 30-32, and 46 are canceled rendering the rejections to these claims moot. The Examiner cites Gundelfinger as disclosing, *inter alia*, a device comprising a housing having a plurality of chambers, and a valve body including a first fluid processing region continuously coupled fluidically with a fluid displacement region, wherein the fluid processing region and the fluid displacement regions are contained within the valve body. Applicant disagrees.

Gundelfinger does not teach or disclose all of the elements as presently recited in independent claim 1, and therefore cannot anticipate claim 1.

#### A. **Gundelfinger does not teach or disclose a fluid displacement region and a fluid processing region contained within the valve body.**

The Examiner alleges that the fluid processing region and the fluid displacement region of Gundelfinger are located within the valve body. To support this characterization of Gundelfinger, the Examiner applies an overly broad interpretation of the valve body of Gundelfinger as comprising the entire valving system which then allegedly comprises the fluid processing region as part of the valve body. This interpretation of Gundelfinger is not consistent with the teachings of the reference itself.

Gundelfinger teaches that the sample loop (30) (alleged by the Examiner to correspond to the fluid processing region of the instant invention) is external to the valve. See, col. 6, line 31 of Gundelfinger. Thus, the Examiner has improperly characterized the reference.

Claim 1 as amended recites, *inter alia*, a:

...valve body comprising a fluid processing region continuously coupled fluidically to a fluid displacement region, wherein the fluid processing region is contained within a disk portion of the valve body, and the fluid displacement region is contained substantially within a tubular portion of the valve body extending into the disk portion,... (Emphasis added).

Because Gundelfinger does not teach or disclose a valve body wherein the fluid processing region is contained within the disk portion of the valve body as claimed, Gundelfinger cannot anticipate independent claim 1 as recited.

**B. Gundelfinger does not teach or disclose a processing chamber having a fluid processing material.**

Claim 1 as amended recites the limitations previously recited in dependent claim 2, directed to the presence of a fluid processing material in the processing chamber (which is different from the processing region in the valve body). The Examiner recognizes that Gundelfinger does not teach or disclose this limitation previously recited in claim 2, because claim 2 was not included in the rejection.

Indeed, Gundelfinger does not teach or disclose a processing chamber as recited in claim 1, wherein:

...the processing chamber contains a fluid processing material which is an enrichment material that captures a target from the fluid sample, or a trapping material that traps unwanted material from the fluid sample.

Because Gundelfinger does not teach or disclose a device having all of the limitations as recited in independent claim 1, Gundelfinger cannot anticipate independent claim 1 as recited..

Claims 12, 27, 34-37, and 42-43 depend either directly or indirectly from independent claim 1 and include all of the limitations of independent claim 1. The arguments as presented above with regard to claim 1 are also applicable to the claims that depend therefrom.

In view of claim 1 as amended and the arguments as presented above, Applicant requests that the Examiner withdraw the rejection.

#### **IV. REJECTIONS UNDER 35 U.S.C. §103(a)**

##### **A. The claims are patentable and not obvious over Gundelfinger in view of Sakai.**

Claims 2-11, 13-16, 28-29, 33, and 47-48 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable and obvious over Gundelfinger in view of Sakai (U.S. Pat. No. 4,937,048).

Claims 2, 3, 10, 28, 29, 33, 47 and 48 are canceled with entry of this amendment rendering the rejections to these claims moot. Pending claims 4-9, 11, 13-16, 47 and 48 all depend either directly or indirectly from independent claim 1 and include all of the limitations of independent claim 1 which is patentable and not anticipated by Gundelfinger for at least the reasons as discussed above. Sakai does not cure the defects in Gundelfinger as discussed above. Therefore, claims 4-9, 11, 13-16, 47 and 48 are patentable and not obvious over the combination of Gundelfinger in view of Sakai.

In view of the claims as amended, and the arguments presented above, Applicant requests that the Examiner withdraw the rejection.

##### **B. Claims are patentable and not obvious over Gundelfinger in view of Lecerf**

Claims 38-41 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable and obvious over Gundelfinger in view of Lecerf (U.S. Pat. No. 4,705,059).

Claims 38-41 depend either directly or indirectly from independent claim 1, which is patentable and not anticipated by Gundelfinger for at least the reasons as discussed above. Lecerf does not cure the defects in Gundelfinger as discussed above. Therefore, claims 38-41 are patentable and not obvious over the combination of Gundelfinger in view of Lecerf.

In light of the claims as recited and the arguments as presented, Applicant requests that the Examiner withdraw the rejection.

#### **CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

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PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

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